REMARKS/ARGUMENTS

Favorable reconsideration of this application, as presently amended and in light of the following discussion, is respectfully requested.

Claims 1-24 are pending in this case. Claims 1, 3, and 22-24 are amended by the present amendment. The changes to Claims 1, 3, and 22-24 are supported in the originally filed disclosure at least at Figure 24 and the associated descriptions. Thus, no new matter is added.

In the outstanding Office Action, Claims 22 and 23 were rejected under 35 U.S.C. § 101, and Claims 1-24 were rejected under 35 U.S.C. §103(a) as unpatentable over Goldman (U.S. Pub. No. 2002/0112239 A1) in view of Ellis, et al. (U.S. Pub. No. 2003/0020744 A1, herein "Ellis").

In reply to the rejections of Claims 22 and 23 under 35 U.S.C. § 101, Claim 22 is amended to recite "acquiring, by an information *processing unit of a data processing apparatus*."

> The Supreme Court . . . has enunciated a definitive test to determine whether a process claim is tailored narrowly enough to encompass only a particular application of a fundamental principle rather than to pre-empt the principle itself. A claimed process is surely patent-eligible under § 101 if: (1) *it is tied to a particular machine or apparatus*, or (2) it transforms a particular article into a different state or thing. *See Benson*, 409 U.S. at 70.[1]

Thus, because the method of Claim 22 is tied to a *processing unit of a data processing apparatus*, which defines a particular apparatus, Claim 22 is in conformity with the requirements of section 101.

[1] *In re Bilski*, 88 USPQ2d 1385 (Fed. Cir. 2008) (emphasis added).

Further, as suggested by the Examiner, Claim 23 is amended to recite "*non-transitory* computer readable storage medium." Applicants submit that the recitation of "non-transitory" is intended only to exclude a signal.

Accordingly, Applicants respectfully request that the rejections of Claims 22 and 23, under 35 U.S.C. § 101, be withdrawn.

Applicants respectfully traverse the rejection of Claims 1-24 under 35 U.S.C. §103(a).

In the outstanding Office Action, Goldman was asserted as teaching every feature of Claim 1 except "displaying the statistical data in superimposed fashion," as recited by Claim 1, which Ellis was asserted as teaching.

Amended Claim 1 recites, *inter alia*:

> EPG generating means for generating an EPG in which said program guide data and said statistical data are superimposed as a two-dimensional grid guide format . . . , *said displayed superimposed statistical data including an indicator of the data indicating scheduling of recording of future-broadcast programs.*

Goldman illustrates, at Figures 2 and 3, and describes, at paragraphs [0027], [0048], and [0049], that individual viewing behavior of users (98a-98d) may be tracked and compiled at a clearinghouse (100) using a feedback channel to generate an Electronic Program Guide ("EPG") displaying user viewing behavior. To that end, Goldman illustrates, at Figure 4, and describes, at paragraph [0052], an EPG which displays television programs ranked in decreasing order based upon viewership information (206) and viewing population information (208), for programs being presently broadcast.

However, Goldman does not describe generating an EPG including superimposed data indicating scheduling of recording of future-broadcast programs. Instead, Goldman describes generating an EPG including ranked television programs based upon viewership and population information, *for programs being presently broadcast*. In fact, the home

entertainment systems (90a-90d) of Goldman are not described as having any ability to *record future-broadcast programs*, at all. Thus, Goldman does not teach or suggest generating an EPG having "superimposed statistical data including an indicator of the data indicating scheduling of recording of future-broadcast programs," as recited by amended Claim 1.

Ellis does not cure the above-discussed deficiencies of Goldman.

Ellis describes, at paragraphs [0107]-[0111], a program guide server (25) which records a user's viewing history. According to Ellis, viewing duration, pay-per-view order, recorded program, schedule reminder, and user search information are provided to the program guide server (25) so that directed advertisements and personalized program guides may be generated.

However, Ellis does not describe generating a personalized program guide including superimposed data indicating scheduling of recording of future-broadcast programs. Instead, Ellis illustrates, for example, a personalized program guide including advertisements (110), logos, a time range (111), program channels, programming names, a lock indicator (161), and a checkbox (155), at Figure 6. In fact, Ellis does not describe or illustrate any EPG which includes "data indicating scheduling of recording of future-broadcast programs," as recited by amended Claim 1. Thus, Ellis does not teach or suggest generating an EPG having "superimposed statistical data *including an indicator of the data indicating scheduling of recording of future-broadcast programs*," as recited by amended Claim 1.

Because Goldman and Ellis, even in combination, fail to describe at least the above-discussed features of amended Claim 1, Applicants respectfully request that the rejection under 35 U.S.C. § 103(a) of Claim 1 and Claims 2-21, which depend therefrom, be withdrawn.

Claims 22-24, although differing in scope and/or statutory class from Claim 1, patentably define over Goldman and Ellis for reasons similar to those discussed above with regard to Claim 1. Thus, Applicants respectfully request that the rejection of Claims 22-24, under 35 U.S.C. §103(a), be withdrawn.

Accordingly, the outstanding rejections are traversed and the pending claims are believed to be in condition for formal allowance. An early and favorable action to that effect is, therefore, respectfully requested.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, L.L.P.

Bradley D. Lytle
Attorney of Record
Registration No. 40,073

Usha Munukutla-Parker
Registration No. 61,939

Customer Number
22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 07/09)